

CHARTER RESOLUTION CR-XX-10 OF THE MAYOR AND COUNCIL OF THE TOWN OF KENSINGTON, MARYLAND, AMENDING ARTICLE IV "THE COUNCIL", SECTION 409 "ORDINANCES" AND SECTION 411, "REFERENDUM", TO CLARIFY PROCEDURES FOR ADOPTION OF ORDINANCES, TO CHANGE THE PERIOD OF TIME REQUIRED FOR ADOPTION OF ORDINANCES, AND TO DELETE SECTION 411(B) WITH RESPECT TO REFERENDA ON LAND USE

A Charter Resolution of the Mayor and Council of the Town of Kensington, Maryland, adopted pursuant to the authority of Article XI-E of the Constitution of Maryland and Article 23A of the Annotated Code of Maryland (1957 edition, as amended); and

WHEREAS, Article 23A of the Annotated Code of Maryland authorizes the Mayor and Council to adopt those ordinances as they may deem necessary in order to assure the good government of the municipality, to protect and preserve the municipality's rights, property, and privileges, to preserve peace and good order, to secure persons and property from danger and destruction, and to protect the health, comfort and convenience of the citizens of the municipality; and

WHEREAS, Section 409 of the Charter sets out the procedure for adoption of ordinances; and

WHEREAS, the Mayor and Council have determined that it is appropriate to amend Section 409 to clarify the procedures for adoption, and to change the period of time required for adoption; and

WHEREAS, Section 411 of the Charter allows a referendum process for ordinances and certain other actions; and

WHEREAS, Section 411(b) sets out an outdated and cumbersome process for presenting official proposals for the more intensive use of land within the Town than have been approved by the Maryland-National Capital Park and Planning Commission, which does not in fact approve such uses;

WHEREAS, the Mayor and Council have determined that Section 411(b) is no longer needed and should be deleted.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Town of Kensington, Maryland, that:

Section 1. Article IV, "The Council", Section 409 "Ordinances" of the Town Charter is repealed, re-enacted and amended as follows:

Section 409. Ordinances

No ordinance shall be passed at the meeting at which it is introduced. ~~[At any regular or special meeting of the Council held not less than twenty-eight (28) days nor more than sixty (60) days after the meeting at which an ordinance was introduced, it shall be passed, or passed as amended, or rejected, or its consideration deferred to some specified future date.]~~ A PUBLIC HEARING IS REQUIRED PRIOR TO ADOPTION OF AN ORDINANCE. UPON FORMAL INTRODUCTION, THE PROPOSED ORDINANCE OR A FAIR SUMMARY THEREOF SHALL BE POSTED AT THE TOWN HALL BY THE NEXT BUSINESS DAY AND PUBLISHED ONCE PRIOR TO THE PUBLIC HEARING IN A NEWSPAPER HAVING GENERAL CIRCULATION IN THE TOWN AND, IF TIME PERMITS, IN THE TOWN NEWSLETTER, TOGETHER WITH A NOTICE SETTING OUT THE TIME AND PLACE FOR A PUBLIC HEARING THEREON AND FOR ITS CONSIDERATION BY THE COUNCIL. THE PUBLIC HEARING MAY BE HELD SEPARATELY OR IN CONNECTION WITH A REGULAR OR SPECIAL COUNCIL MEETING AND MAY BE ADJOURNED FROM TIME TO TIME. ALL PERSONS INTERESTED SHALL HAVE AN OPPORTUNITY TO BE HEARD. AFTER THE HEARING, THE COUNCIL MAY ADOPT THE PROPOSED ORDINANCE WITH OR WITHOUT AMENDMENTS OR REJECT IT. AS SOON AS PRACTICABLE AFTER ADOPTION, A FAIR SUMMARY OF THE ORDINANCE AND NOTICE OF ITS ADOPTION SHALL BE PUBLISHED ONCE IN A NEWSPAPER OF GENERAL CIRCULATION IN THE TOWN AND PUBLISHED IN THE TOWN NEWSLETTER, AND POSTED BY THE NEXT BUSINESS DAY FOR PUBLIC REVIEW IN THE TOWN HALL FOR AT LEAST TWO (2) WEEKS. All ordinances shall become effective on the date specified in the ordinance, which shall not be prior to twenty (20) days following approval of said ordinance. ~~[Before passage and after passage a fair summary of each ordinance shall be published at least once in the next municipal newsletter and posted by the next business day for public review in the town hall for at least two (2) weeks.]~~ In cases of emergency, the above

CAPS : Indicate matter added to existing law.

[Brackets] : Indicate matter deleted from law.

Asterisks * * * : Indicate matter remaining unchanged in existing law but not set forth in Ordinance.

requirements may be suspended by the unanimous votes of all members of the Council present with a minimum of a quorum present. An emergency ordinance shall become effective on the date specified in the ordinance.

Section 2. Article IV, "The Council", Section 411 "Referendum" of the Town Charter is repealed, re-enacted and amended as follows:

Section 411. Referendum

(a) * * * *

(b) ~~Neither the Mayor, the Town Council, nor any member or representative thereof shall present to the Montgomery County Council, the Maryland National Capital Park and Planning Commission or to any members, employees (or subdivision thereof) any official proposal or recommendation for the more intensive use of land within the corporate limits of the Town than has been approved by said Park and Planning Commission (i) unless said proposal or recommendation has been approved by the Mayor and all members of the Town Council in a recorded vote on the specific proposal or (ii) unless said proposal or recommendation has been approved by a majority of voters in a special election.]~~

(c) * * * *

Section 3. BE IT FURTHER RESOLVED that this Charter Resolution is adopted this _____ day of _____, 2011, and that the amendment to the Charter of the Town of Kensington, hereby proposed by this enactment, shall be and become effective upon the fiftieth (50th) day after its passage by the Town unless petitioned to referendum in accordance with Article 23A §13 of the Annotated Code of Maryland within forty (40) days following its passage. A complete and exact copy of this Charter Resolution shall be posted in the Town offices located at 3710 Mitchell Street, Kensington, Maryland 20895 for forty (40) days following its passage by the Mayor and Council and a fair summary of the Charter Resolution shall be published in a newspaper having general circulation in the Town not less than four (4) times, at weekly intervals, also within the forty (40) day period following its adoption by the Town.

Section 4. BE IT FURTHER RESOLVED that, within ten (10) days after the Charter Resolution hereby enacted becomes effective, either as herein provided or following referendum, the Town Manager for the Town of Kensington shall send separately, by certified mail, return receipt requested, to the Department of Legislative Reference, the following information concerning the Charter Resolution: (i) the complete text of this Resolution; (ii) the date of referendum election, if any, held with respect thereto; (iii) the number of votes cast for and against this Resolution by the Council of the Town of Kensington or in the referendum; and (iv) the effective date of the Charter Resolution.

INTRODUCED by the Mayor and Council of the Town of Kensington, Maryland at a regular meeting on the _____ day of _____ 2010.

ADOPTED by the Mayor and Council of the Town of Kensington, Maryland at a regular meeting on the _____ day of _____ 2011.

EFFECTIVE the _____ day of _____, 2011.

THE TOWN OF KENSINGTON, MARYLAND

Peter Fosselman, Mayor

ATTEST:

By _____
Susan Engels, Town Clerk-Treasurer

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**

Suellen M. Ferguson, Town Attorney